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**IOWA UTILITIES BOARD**  
**Policy Development and Energy Sections**

**TO:** The Board

**FROM:** Gordon Dunn  
Brenda Biddle  
Andrew McGrean

**DATE:** November 25, 2013

**SUBJECT:** Decision Memorandum  
Black Hills Energy Company  
Proposed Energy Efficiency Plan, Docket No. EEP-2013-0001

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## **I. Background and Procedural History**

On March 3, 2009, the Iowa Utilities Board issued an order directing Black Hills/Iowa Gas Utility Company LLC d/b/a Black Hills Energy (Black Hills) to file a new energy efficiency plan (Plan or EEP) on or before April 1, 2013. Black Hills filed its proposed new plan on March 29, 2013. The proposed Plan is projected to produce 546,000 Dekatherms of total savings over the five years which represents, on average, 0.64 percent of annual sales. The total Plan results in a societal benefit cost ratio of 1.02 with net economic benefits of nearly \$950,000. Black Hills continues to offer many of the programs available in the current plan although improvements have been made to many of them. The Building Operator Certification program will be discontinued although funds will be available under the administration, training and marketing budget if there are any interested participants.

The Board docketed the filing, identified as Docket No. EEP-2013-0001 and set a procedural schedule by order issued on April 22, 2013. The order also required that Black Hills file additional information within 20 days. On May 13, 2013, Black Hills provided the additional information requested. Apart from the Consumer Advocate Division of the Department of Justice (Consumer Advocate or OCA), Winneshiek Energy District is the only other party intervening.

The parties filed a Joint Statement of Issues on August 20, 2013, outlining 17 contested issues. On October 2, 2013, Black Hills and the Consumer Advocate submitted a Non-Unanimous Partial Settlement Agreement (Settlement Agreement), based on the Joint Statement of Issues, which presented proposed resolutions to all of the issues. The Settlement Agreement was amended on October 7, 2013 to clarify the resolution for two of the issues. Winneshiek Energy District was not a signatory to the proposed settlement, although it did file a partial joinder to the proposed settlement on October 4, 2013.

The Board held a hearing on October 8, 2013, and heard testimony regarding the issues not addressed by the Settlement Agreement as well as the contested Settlement Agreement terms. The hearing concluded the same day.

On October 9, 2013, the Board issued its Order Setting Dates for Settlement Comments, in which the Board stated the parties could address the Settlement concurrently with their post-hearing briefs due October 30, 2013. The Board further allowed for responses to Settlement Agreement comments by November 6, 2013.

## **II. Summary of Briefs and Reply Settlement Comments**

### **Black Hills Position**

Brief, pp. 5-7

The agreed resolutions to all settlement issues except one (issue 13) are materially identical to the agreed resolutions set forth in the partial Settlement Agreement (IPL Agreement) filed on July 26, 2013, in Docket No. EEP-2012-0001 involving Interstate Power and Light Company (IPL). Settlement Issue No. 13 was not an issue in Docket No. EEP-2012-0001, but all parties to this docket, including Winneshiek Energy District support the agreed resolution of the issue.

On October 17, 2013, the Board convened a public meeting at which it deliberated and reached a decision on all issues presented in Docket No. EEP-2012-0001. At this public meeting, the Board approved IPL Agreement with respect to Issue Nos. 1-12, 13 and 19-21, which are materially identical to the agreed resolutions of Settlement Issues 1-12 and 14-17 in this docket.

Since 199 IAC 7.18 provides that the Board will not approve a settlement unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest, the Board's approval of the resolutions of EEP-2012-0001 settlement issues must be deemed a finding that those resolutions are reasonable, consistent with law, in the public interest, and in light of the whole record. For that reason, the agreed resolutions of Settlement Issue Nos. 1-12 and 14-17 in this docket must be likewise deemed consistent with the law and in the public interest. Black Hills is aware of no material difference between the evidentiary record in this docket and that of Docket No. EEP-2012-0001, and thus the agreed resolutions of Settlement Issue Nos. 1-12 and 14-17 must be deemed reasonable in light of the whole record.

Black Hills is aware that a final written decision in Docket No. EEP-2012-0001 has not been issued and the decision announced at the October 17, 2013, public meeting does not constitute the Board's final decision in that docket. Black Hills will review the written decision and if there are material differences from the decision announcement, Black Hills will file a motion seeking leave to submit an amended version of this brief that reflects those differences.

The Board should find and determine that the agreed resolutions of each and every issue set forth in the Settlement Agreement between Black Hills and the Consumer Advocate on October 2, 2013, and amended on October 7, 2013, is reasonable in light of the whole record, consistent with law, and in the public interest. The Board should specifically approve the Settlement Agreement in its entirety and generally approve the Plan as filed by Black Hills on March 29, 2013, as supplemented, altered, elaborated, and/or interpreted by the Settlement Agreement.

## Consumer Advocate Position

Brief, pp. 3-7

The Settlement Agreement filed by the Consumer Advocate and Black Hills resolves all issues raised by the Consumer Advocate regarding Black Hills' proposed Plan. The proposed Plan is cost-effective, with an overall portfolio societal benefit-cost ratio of 1.02 (Tr. 174.) and targets 33.3 percent of total natural gas market potential in 2014 to 39.7 percent in 2018. (Tr. 176.) OCA witness Foster explained that Black Hills' plan performance could be enhanced by focusing on the more cost-effective opportunities while adjusting the spending on measures that are not cost-effective. (Tr. 182-83.) Foster also identified numerous market-based approaches for increasing the depth of savings and economies of scale (Tr. 185-89.) and addressed other innovative strategies utilized by high-performing program administrators to support program performance. (Tr. 189-90.) The enhanced collaborative process as outlined in the Settlement Agreement will provide for ongoing review of approaches that motivate customer engagement and support energy efficiency market development and transformation.

The Statewide Assessment estimated the amount of energy that could be saved in each utility's service territory from 2014-2023 and included technical, economic and market potential. To provide a more realistic upper bound to the estimate of economic potential, the market potential or maximum achievable potential used a narrowly defined scenario.<sup>1</sup> The utilities' assessment of achievable potential is narrower than a more traditional market or achievable potential assessment. (Assessment, Vol. 1, p. 15) The use of assumptions to determine market potential underscores the importance of a periodic review during Black Hills' five-year Plan implementation period to consider changes in circumstances that impact the programs and achievable savings.

Black Hills noted examples of other changed or changing circumstances such as lower natural gas prices, higher costs for energy efficiency measures, and changes in codes and standards, that can significantly impact programs. (Tr. 12.) The enhanced collaboration process embodied in the Settlement Agreement will help address the need for routine review and is compatible with the ongoing review, adjustment, and modification provided for in energy efficiency plans. Iowa Code § 476.6(16)"e."

Black Hills' agreement to participate in a process to develop and maintain a Technical Reference Manual (TRM) will also serve to bring improved precision and more rigorous and frequent review to the deemed savings employed in the Statewide Assessment. Consumer Advocate witness Foster explained that the development of standard and defensible protocols for calculating savings through a TRM can be expected to contribute to reported savings that more closely map to verified savings and provide a structure for program planning and goal setting. (Tr. 204.)

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<sup>1</sup> The scenario assumed: incentive payments up to 100 percent of incremental cost; financing is available to further address first-cost barriers; and additional economic potential becomes available from emerging technologies. (Assessment, Vol. 1, pp. 4, 15)

### Winneshiek Energy District Position

Brief, p. 2

Winneshiek Energy District explains where it is able to join in the Settlement Agreement and where it takes no position or opposes the settlement of a particular issue. Winneshiek Energy District has revised its stance in the Partial Joinder on the basis of concerns and questions raised during the hearing with regard to the content and implementation details related to the settlement issues.

Winneshiek Energy District's comments and recommendations for each issue are provided in the section below, entitled "Summary of Issues, Settlement Agreement and Partial Joinder."

### Black Hills Reply Position

Reply Settlement Comments, p. 1-8

Black Hills believes it is important for the Board to recognize that the positions taken by Winneshiek Energy District are primarily self-serving. Winneshiek Energy District wishes to profit from energy efficiency programs offered in the proposed Plan and has admitted that it wants Black Hills to give Winneshiek Energy District preferential treatment. However, Winneshiek Energy District has failed to focus on the overall cost-effectiveness of Black Hills' Plan in its recommendations. Black Hills will consider Winneshiek Energy District as a candidate for a third-party provider role, but will not give preferential treatment. Since Black Hills will be accountable for the performance of its programs, a final decision on the selection of third-party contractors will be made by Black Hills' management.

The Board should find and determine that the Settlement Agreement between Black Hills and OCA is reasonable in light of the whole record, consistent with law, and in the public interest. The Board should approve the Settlement Agreement in its entirety and generally approve the energy efficiency plan submitted by Black Hills on March 29, 2013, as supplemented, altered, elaborated and interpreted by the Settlement Agreement.

### **III. Summary of Issues, Settlement Agreement & Partial Joinder**

**Issue 1 - Whether Black Hills' proposed EEP, as a whole, is cost-effective under the societal test, utility cost test, rate-payer impact test, and participant test, pursuant to Iowa Code § 476.6(14)**

#### **Settlement Agreement**

Issue No. 1 is not in contention on the merits between Black Hills and OCA; however, the settling parties agree this does not preclude ongoing review and modification of programs during the 5-year plan.

#### **Winneshiek Energy District Position**

Brief, p. 2

Winneshiek Energy District takes no position on this issue.

**Issue 2 - Whether Black Hills' proposed EEP meets the plan requirements set forth in 199 IAC 35.8-10**

#### **Settlement Agreement**

Issue No. 2 is not in contention on the merits between Black Hills and OCA; however, the settling parties agree this does not preclude ongoing review and modification of programs during the 5-year plan.

#### **Winneshiek Energy District Position**

Brief, pp. 2-3

Winneshiek Energy District takes no position on this issue.

**Issue 3 - Whether Black Hills recognizes the appropriate amount of achievable economic potential pursuant to the 2012 Statewide Assessment**

- a. Whether the Statewide Assessment is accurate and complete;
- b. Whether Black Hills should recognize a higher level of potential, including the impact this would have on its customers and resource planning

**Settlement Agreement**

Issue No. 3 has been resolved between Black Hills and the OCA through the negotiation and settlement of the issues in the Settlement Agreement.

**Winneshiek Energy District Position**

Brief, p. 3

Winneshiek Energy District takes no position on this issue.

**Issue 4 - Whether Black Hills' proposed annual savings targets are appropriate including the assumption of an International Energy Conservation Code (IECC) 2012 baseline**

**Settlement Agreement**

Issue No. 4 has been resolved between Black Hills and the OCA through the negotiation and settlement of the issues in the Settlement Agreement.

**Winneshiek Energy District Position**

Brief, p. 3

Winneshiek Energy District takes no position on this issue.

**Issue 5 - Whether Black Hills' proposed energy efficiency programs, marketing and outreach strategies, incentive strategy and budgets are appropriate to achieve the planned energy savings, and whether supplemental performance-based criteria are appropriate to help maximize achievement of cost-effective energy efficiency opportunities as needed**

**Settlement Agreement**

Issue No. 5 has been resolved between Black Hills and the OCA. Black Hills agrees that it will strive to find cost-effective, customer-centered, performance-based incentives to vendors/contractors that motivate customer engagement, energy efficiency market

development, and market transformation. Black Hills will report on these efforts as part of its Fall Operations Report as noted in Appendix 2 of the Settlement Agreement.

#### Winneshiek Energy District Position

Brief, pp. 3-4

Winneshiek Energy District takes no position on this issue, but reiterates that the settlement terms focus on Black Hills striving to find cost-effective, customer-centered, performance-based incentives. The issue asks whether supplemental performance-based criteria are needed to help maximize achievement of cost-effective energy efficiency opportunities. As a result, it is not clear that the settlement terms address an important aspect of the contested issue.

**Issue 6 - Whether Black Hills' proposed energy efficiency programs demonstrate a sufficient level of consistent and sustained coordination, such that there is integrated, systematic, and cost-effective implementation of energy efficiency measures within and across program sectors, including the low-income sector**

#### Settlement Agreement

Issue No. 6 has been resolved between Black Hills and the OCA. Black Hills will incorporate provisions for third-party subcontracting within its Request for Proposal (RFP) process. Additionally, Black Hills will strive to work with Green Iowa AmeriCorps (GIAC), in the communities in which GIAC operates, to develop a supplemental weatherization program for customers on Community Action Program (CAP) agency waiting lists in those communities. For more information on these concessions, refer to the resolution of Issue Nos. 9 and 11. It is further envisioned that Black Hills' Low-Income Weatherization Team and Low-Income Affordable Housing Programs may also serve as avenues for engaging third-parties and local energy efficiency resources.

#### Winneshiek Energy District Position

Brief, pp. 4-7

Winneshiek Energy District believes the Settlement Agreement contains positive progress on aspects relating to third-party technical assistance from local qualified professionals. However, the Settlement Agreement lacks context and details important to successful implementation. Winneshiek Energy District supports the settlement of this issue but asks the Board to direct Black Hills to address issues related to: all energy efficiency programs, third-party contracting, and the GIAC service to low-income households.

For all energy efficiency programs, Winneshiek Energy District suggests the Board establish a fair competition principle that qualified energy professionals and

organizations have a right to provide technical service and allow investor-owned utility (IOU) customers to choose their technical service provider where there is a qualified local provider.

With respect to third-party contracting, Winneshiek Energy District requests the Board: 1) establish a financial parity principle to ensure the full implementation and fair treatment of qualified energy professionals throughout Iowa; 2) require that qualified third-parties be contracted and able to commence service no later than March 1, 2014; 3) define the “rigorous screens” and “qualifying protocols” pertaining to the third-party subcontracting; 4) clarify how reimbursement rates will be split between the primary vendor and third-party contractors; and 4) encourage Black Hills to contract with qualified third-parties that have demonstrated ability to deliver high quality energy planning and energy efficiency services in a city or county in Black Hills’ service territory.

For the GIAC-related programs, Winneshiek Energy District requests the Board: 1) clarify the content of the “supplemental weatherization” program; 2) direct Black Hills to expand the “supplemental weatherization” program to include all households currently eligible for CAP low-income programs; 3) establish data sharing protocols between CAP agencies, Black Hills and GIAC teams; 4) require Black Hills to collaborate with other utilities in their service territories to provide comprehensive service to all customers; and 5) require that implementation details be completed quickly so GIAC teams and third-parties are contracted no later than March 1, 2014.

Winneshiek Energy District did not pursue its request that the Board “require Black Hills to reimburse the GIAC teams based on both energy savings and outreach/education activities” since this request was perceived as a reference to performance contracting.

#### Black Hills Reply Position

Reply Settlement Comments, pp. 2-7

Black Hills responds to recommendations provided by Winneshiek Energy District in its brief for Issue No. 6.

Black Hills believes fair competition is achieved through the RFP process outlined in the Settlement Agreement but opposes the suggestion that third-party contractors should be awarded legal rights to participate in programs, particularly when program and plan performance is the responsibility of Black Hills.

In response to Winneshiek Energy District’s concerns regarding third-party contractors, Black Hills states that it has committed to engage third-party contractors through an RFP process with reasonable requirements, but notes that much of its service territory is in rural areas where local participating contractors are rare. While Winneshiek Energy District argues that a financial-parity principle for reimbursement to qualified third-party contractors should be established, Black Hills believes its primary obligation

is to engage qualified contractors at the lowest cost to maximize value and Plan performance. Having a local established presence is not the only criterion to be evaluated in identifying potential third-party contractors.

Black Hills notes that Winneshiek Energy District requests that third-party contractors be contracted and asked to commence providing service as soon as possible. Black Hills has already begun work on the RFP process and intends to implement it as soon as possible. In response to Winneshiek Energy District's suggestion that Black Hills define "rigorous screens" and "qualifying protocols" and clarify the reimbursement rate split between the primary vendor and third-party subcontractors, Black Hills states that it is committed to defining the RFP process and obtaining input from the Consumer Advocate as soon as possible.

Winneshiek Energy District encouraged Black Hills to subcontract with qualified third parties. Black Hills has committed to an RFP process but has not committed to requiring its primary contractors to hire third parties. Black Hills will review this suggestion to determine whether the suggestion adds value or merely increases costs.

Winneshiek Energy District also had recommendations regarding the GIAC services and the supplemental weatherization program. Black Hills met with GIAC after the October 8 hearing and is working to incorporate GIAC in its programs as quickly as possible if it can do so without negatively impacting the overall plan's benefit cost ratio. Black Hills does not oppose Winneshiek Energy District's suggestion to expand the supplemental weatherization program to include all households eligible for CAP/DOE low-income energy programs.

Winneshiek Energy District suggests that for the GIAC and services to LMI<sup>2</sup> households, Black Hills develop data sharing protocols between the CAP agencies, the utility and the host organizations and that Black Hills collaborate with the other utilities in their service territories to provide comprehensive services. Black Hills points out that it works closely with CAP agencies to identify low-income households and will work with GIAC to identify LMI households. However due to privacy laws, Black Hills is unable to share most customer information. Additionally, Black Hills already collaborates with the other IOUs where Black Hills and one of the other IOUs serve the same customers and will continue the collaborative process with the customer-owned utilities when similar programs are offered.

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<sup>2</sup> Winneshiek Energy District does not define "LMI", but staff believes the term references low to moderate income households.

**Issue 7 - Whether Black Hills has proposed an appropriate plan and budget for the Evaluation, Measurement and Verification (EM&V) of its EEP**

**Settlement Agreement**

Issue No. 7 has been resolved between Black Hills and the OCA. It is agreed that the EM&V plan set forth in Appendix 1 of the Settlement Agreement is an appropriate resolution of the issues raised by the parties. Quality assurance and quality control for Black Hills' programs will be addressed in the EM&V plan. As the EM&V plan is implemented, Black Hills will monitor whether budget adjustment is needed in order to fully implement the plan components.

**Winneshiek Energy District Position**

Brief, p. 7

Winneshiek Energy District takes no position on this issue.

**Issue 8 - Whether technical assistance standards are adequate and effective to achieve high levels of "conversion," or practice implementation, and to adequately attribute practice implementation and savings back to technical assistance provided versus stand-alone prescriptive or custom rebates**

**Settlement Agreement**

Issue No. 8 has been resolved between Black Hills and the OCA through the negotiation and settlement of the other issues in the Settlement Agreement.

**Winneshiek Energy District Position**

Brief, pp. 7-9

Winneshiek Energy District opposes the settlement on this issue because Black Hills' past and proposed Plans have not demonstrated the ability to track practice implementation based on technical assistance. It has not been possible to determine whether "technical assistance standards are adequate to achieve high levels of conversion."

Winneshiek Energy District believes that if conversion rates are tracked, the results will show there is a great deal of room for improvement. Winneshiek Energy District also believes the key to higher implementation rates is a locally-led energy planning approach that provides customers with audits that include high quality diagnostic testing; an individualized plan for energy savings developed in partnership with the customer and includes all forms of energy; and follow through to encourage implementation of recommended practices.

Black Hills is proposing a modest version of energy planning via its Tier I and Tier II comprehensive evaluations for residential customers but it is not clear whether a blower door test will be required. Additionally, Winneshiek Energy District believes all energy savings opportunities should be highlighted so ratepayers can achieve maximum savings from the energy efficiency program and these audits should be tied to the U.S. EPA's Home Performance with Energy Star program. The Tier 1 and Tier II program descriptions do not identify any follow through measures Black Hills will implement and does not specify whether any unique marketing materials will be developed.

#### Black Hills Reply Position

Reply Settlement Comments, p. 7

Winneshiek Energy District opposes the settlement of Issue 8 regarding the adequacy of technical standards, including conversion rates. Black Hills hopes to have its new tracking system completed for a January 2014 rollout; it will allow better tracking of conversion rates across the entire portfolio.

#### **Issue 9 - Whether technical assistance, energy auditing, assessments, planning, and follow-through, to all customer classes ought to be open to qualified energy professionals not currently participating in Black Hills' EEP**

##### Settlement Agreement

Issue No. 9 has been resolved between Black Hills and the OCA. Black Hills will incorporate provisions for third-party subcontracting within its RFP process. During contract negotiations with the successful bidder, Black Hills will reserve the right to allow third-party qualified subcontracting and will retain the right to require the vendor to support third-party subcontracting as defined and directed by Black Hills. Black Hills will retain oversight, management and direct access to the third-party contractor.

##### Winneshiek Energy District Position

Brief, pp. 9-11

Winneshiek Energy District supports the settlement of this issue but asks the Board to direct Black Hills to incorporate the recommendations for all energy efficiency programs and for third-party contracting listed in Issue No. 6.

Winneshiek Energy District acknowledges that implementation of a comprehensive third-party process will carry some administrative costs but is confident that increased implementation rates will significantly improve benefit-cost ratios. The fact that none of the IOU's energy efficiency programs to date have been able to account for savings resulting from customer implementation of audit-recommended practices but use only

auditor-installed measures for benefit-cost ratios suggest there is tremendous room for improvement in the quality of technical assistance. It also suggests that direct-install measures are highly cost-effective and result in significant energy savings; meaning a stand-alone Direct Install program open to all customers can be implemented with lower cost and greater benefit to ratepayers and society. These two areas hold the greatest potential for improvements of the Black Hills programs and neither require drastic change or high cost.

**Issue 10 - Whether a more formal collaboration and/or enhanced reporting process for energy efficiency plan performance is warranted**

**Settlement Agreement**

Issue No. 10 has been resolved between Black Hills and the OCA. The parties agree that Collaborative Meetings shall continue throughout the 2014-2018 Plan in the manner described in Appendix 2 of the Settlement Agreement. Included in Appendix 2 are the specific actions Black Hills agrees to undertake.

**Winneshiek Energy District Position**

Brief, p. 11

Winneshiek Energy District supports the settlement issue.

**Issue 11 - Whether Black Hills has proposed appropriate Residential Portfolio Programs, including the potential for stand-alone direct install programming open for implementation by qualified community-level organizations including, but not limited to, GIAC teams and hosts**

**Settlement Agreement**

Issue No. 11 has been resolved between Black Hills and the OCA. Black Hills agrees it will undertake the following actions:

- A. As discussed in the resolution of Issue No. 9, the contracts resulting from the RFP for residential and small business energy assessments will encourage Black Hills' primary vendor to subcontract with local experts and incorporate performance-based criteria as discussed in the resolution of Issue No. 5.
- B. Black Hills will strive to coordinate with electric service providers and leverage community resources as appropriate.
- C. Black Hills will encourage its customers to adopt behavioral approaches that will reduce energy consumption. Tactics include offering the free online audit that provides recommendations to customers to reduce energy and offering

incentives for a Wi-Fi thermostat that will encourage customers to be more engaged in controlling their energy usage.

- D. In the communities in which GIAC operates or expands its operations, Black Hills will strive to work with GIAC to develop a supplemental weatherization program for customers on CAP agency waiting lists in those communities.
- E. Black Hills will include the Low-Income EnergyWise Education program in its EM&V plan and prioritize the program for early review within the new plan.
- F. Multifamily – Black Hills agrees to participate in joint utility promotion targeted at tenants to increase demand for efficient dwellings. OCA and Black Hills will continue to monitor this program for rating options and efficiency designations.
- G. New Home Construction – Black Hills has addressed quality assurance and quality control for this program in its EM&V described in Appendix 1 of the Settlement Agreement. Black Hills will continue to monitor this program and consider market research to guide possible incentives for even more efficient home designations. Black Hills will review baseline assumption (2012 IECC) to determine savings that should be attributed to this program. Black Hills will evaluate offering a more comprehensive Residential New Construction option, giving consideration to IPL's and MidAmerican's program offerings, and will report its conclusions to OCA by year-end 2013.
- H. HVAC SAVE – Black Hills will review evaluations of the HVAC SAVE programs of MidAmerican and IPL in 2013 and 2014. If the savings from the programs are proven to be cost-effective, Black Hills will strive to certify as many as possible of the HVAC dealers that perform work in Black Hills' service territory in the HVAC SAVE training program during the 2014 and 2015 program years and would be willing to adopt HVAC SAVE as a program requirement in program year 2016 and eliminate dealer incentives for obtaining SAVE certification.

#### Winneshiek Energy District Position

Brief, pp. 11-14

Winneshiek Energy District supports the partial settlement of this issue but maintains that it fails to address “the potential for a stand-alone Direct Install program.”

Winneshiek Energy District requests the Board direct Black Hills to develop a two-year pilot for a stand-alone Direct Install program. Such a program would provide direct install measures to homeowners who might not be interested in an energy audit and thus free the trained energy auditors to focus on larger, more comprehensive energy assessments.

#### Black Hills Reply Position

Reply Settlement Comments, p. 7

Black Hills will consider Winneshiek Energy District's suggestion to implement a pilot stand-alone Direct Install program as it learns more about GIAC.

## **Issue 12 - Whether Black Hills has proposed appropriate Nonresidential Portfolio Programs**

### **Settlement Agreement**

Issue No. 12 has been resolved between Black Hills and the OCA. Black Hills agrees that it shall undertake the following actions:

- A. Business Assessments – Black Hills now has a system that will allow for tracking of assessment recommendations and matching those recommendations to its program offerings. Black Hills will issue an RFP in alignment with the OCA's recommendations for third-party inclusion, as described in the resolutions of Issue Nos. 9 and 11, and with the performance-based criteria described in the resolution of Issue No. 5. Black Hills will evaluate the outcomes through its EM&V set forth in Appendix 1 of the Settlement Agreement.
- B. Commercial New Construction – BHE will update its baseline as applicable codes and standards are revised. Black Hills will make verified savings reports at the measure level available for the EM&V process. Black Hills also plans to increase its annual goal to eight participants per year.
- C. Custom Rebates – Black Hills will: 1) strive to develop a bundling strategy to encourage comprehensive projects; 2) maintain appropriate staffing levels to address customers' needs; and 3) maintain appropriate market segmentation and outreach.
- D. Prescriptive Rebates – Black Hills will review the possibility for an upstream HVAC program based on research findings that will be reported to the OCA and EEP parties by IPL. Black Hills reserves the right to do its own research regarding this matter. Based on these findings, BHE may add an upstream HVAC program as early as the 2015 program year. Black Hills will continue to review product qualifications in an annual program review. Although Black Hills believes that test in/test out blower door tests for infiltration measures may not be cost-effective, it will monitor the response to such tests for the residential program and will determine whether it would be appropriate to include the same for the non- residential program during the course of the 2014-2018 EEP.
- E. Benchmarking – Black Hills will offer benchmarking options to each Commercial and Industrial audit participant.

### **Winneshiek Energy District Position**

Brief, pp. 14-15

Winneshiek Energy District supports the settlement of this issue but asks the Board to direct Black Hills to address the matters related to third-party contracting listed above in Winneshiek Energy District's response to Issue No. 6.

**Issue 13 - Whether Black Hills' support for tree-planting programs is appropriate**

**Settlement Agreement**

Issue No. 13 has been resolved between Black Hills and the OCA. All tree programs administered by Black Hills will maintain a clear energy efficiency nexus and be accompanied by appropriate energy efficiency informational materials.

**Winneshiek Energy District Position**

Brief, pp. 15-16

Winneshiek Energy District supports the settlement on this issue.

**Issue 14 - Whether Black Hills has proposed appropriate Outreach, Education and Training Portfolio Programs, including the potential local or community programs including, but not limited to, GIAC teams and hosts for local activities**

**Settlement Agreement**

Issue No. 14 has been resolved between Black Hills and the OCA. Black Hills agrees that it will undertake the following actions:

- A. Education – Black Hills will consider behavioral change/energy challenge for school-based programs. Black Hills will evaluate LivingWise through its EM&V plan described in Appendix 1 of the Settlement Agreement.
- B. Marketing Plan – Black Hills will monitor whether budget adjustments are necessary to support initiatives designed to motivate customer engagement, energy efficiency market development and market transformation as described in the resolution of Issue No. 5.
- C. The parties acknowledge that program/measure-specific advertising will be retained, tracked in the program budget, and reported.
- D. Builder Training – Black Hills will meet on a regular basis with residential home builders to educate them on program requirements, processes and procedures.

**Winneshiek Energy District Position**

Brief, pp. 16-17

Winneshiek Energy District opposes the settlement of this issue because it does not include a strategy that utilizes the GIAC teams for appropriate outreach, education and training programs. Past evaluations of Black Hills' (and other IOUs) programs have emphasized the importance of local leadership and partnerships for highly effective program marketing and outreach. Local GIAC are an existing presence in multiple Black Hills communities with strongly aligned incentives and track records. Providing

energy efficiency funds in support of GIAC outreach and education efforts will provide a highly effective leveraging of rate-payer funds in support of those very local partnerships identified by Black Hills as important.

The Board should direct Black Hills to utilize GIAC teams for education and outreach in the service territories where they operate.

#### Black Hills Reply Position

Reply Settlement Comments, pp. 7-8

Black Hills has met with GIAC representatives and is working to involve GIAC in its programs in areas where GIAC operates. Black Hills expects further discussions to determine whether GIAC can provide outreach, education and training programs in a cost-effective manner.

**Issue 15 - Whether Black Hills is appropriately integrating a market transformation approach in its program and, if so, what are the implications of market transformation (e.g., when the market has been transformed via codes and standards or other intervention strategies)**

#### Settlement Agreement

Issue No. 15 has been resolved between Black Hills and the OCA. Specifically, the procedures included in the resolutions of Issue No. 7 (EM&V), Issue No. 5 (performance-based incentives), Issue No. 10 (Collaborative Meetings) and Issue No. 16 (TRM) sufficiently address the concerns regarding market transformation.

#### Winneshiek Energy District Position

Brief, p. 17

Winneshiek Energy District takes no position on this issue.

**Issue 16 - What considerations there should be regarding a TRM, including formulation, consistency among utilities, timing of implementation, and independent oversight process and administration**

#### Settlement Agreement

Issue No. 16 has been resolved between Black Hills and the OCA. Black Hills agrees to work with MidAmerican, IPL and interested parties in the development of a TRM. The development strategy for the TRM is addressed in more detail in Section 1.4 of Appendix 1 of the Settlement Agreement.

Winneshiek Energy District Position

Brief, pp. 17-18

Winneshiek Energy District supports the settlement of this issue.

**Issue 17 - What the implications are of, and what consideration should be given to, implementing Net-to-Gross ratios other than 1.0 for specific programs**

Settlement Agreement

Issue No. 17 has been resolved between Black Hills and the OCA. Net-to-gross ratios will be addressed in the context of the EM&V as described in Appendix 1, section 1.5 of the Settlement Agreement.

Winneshiek Energy District Position

Brief, p. 18

Winneshiek Energy District takes no position on this issue.

**IV. Staff Conclusions and Recommendations**

Staff believes the Settlement Agreement filed by Black Hills and Consumer Advocate on October 2, 2013, and amended on October 7, 2013, incorporates some of Winneshiek Energy District's suggestions and concerns. Staff acknowledges that it does not provide all the implementation details Winneshiek Energy District has requested, but Black Hills is working to incorporate many of these suggestions where it believes it can, without negatively impacting the cost-effectiveness of the Plan. Black Hills is responsible for implementing its programs and meeting the goals and targets set by the Board and ensuring that the Plan is cost-effective. The stakeholder collaborative allows interested parties to provide input into the program implementation details and work with Black Hills to develop innovative programs. This process does not stop once the Board approves Black Hills' Plan. Winneshiek Energy District should be encouraged to work with stakeholders and Black Hills to further develop details for the items in the Settlement Agreement.

The Settlement Agreement reaches resolution on several issues that were also resolved in partial non-unanimous settlement agreements in the energy efficiency proceeding involving IPL, Docket No. EEP-2012-0001. Staff believes the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest.

Staff recommends the Board approve the Settlement Agreement filed by Black Hills and the Consumer Advocate on October 2, 2013, and amended on October 7, 2013.

Staff also suggests the Board indicate that the goals proposed by Black Hills should be considered as a basic set of performance targets. If program changes pursuant to the Settlement Agreement or the actual implementation of proposed programs show significant, lasting differences in results from the estimates in the plan, Black Hills should seriously consider plan or program modifications.

Staff sees a continuing need for formal documentation of changes in program features such as customer qualifications, incentive levels, technologies or other program changes. As an aid to staff and the stakeholders, the Board should require Black Hills to provide annually (on or before January 31 of each year); an update capturing program changes which do not require plan modification. This update should be provided as a table listing the changes by program. If the Board agrees with these recommendations (compliance filing and annual updates) the order approving the plan could state that the "compliance" filing should serve as the first (2014) update.

Staff also believes Black Hills should continue to file an Annual Report, due May 1 of each year, which provides the savings and spending results of its most recently completed Plan year and any EM&V information or updates for its programs.

Staff recommends the Board require Black Hills (and the other IOUs) to participate in a discussion of filing requirements prior to the filing of the next round of energy efficiency plans. The target date should be approximately 18 months before the due date of the first plan scheduled by the Board for the next round of IOU energy efficiency plans. Staff also recommends the Board establish the dates for filing of new plans in the final order approving the Black Hills' Plan.

Staff recommends the Board direct General Counsel to prepare a draft order consistent with staff's conclusions and recommendations.

RECOMMENDATION APPROVED

IOWA UTILITIES BOARD

/gd/bkb

<u>/s/ Elizabeth S. Jacobs</u>	<u>11-26-13</u>
	Date

<u>/s/ Nick Wagner</u>	<u>11/26/13</u>
	Date

<u>/s/ Sheila K. Tipton</u>	<u>11/26/13</u>
	Date